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# Message Text

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ACTION L-03

INFO OCT-01 NEA-10 ISO-00 DODE-00 EB-08 NSAE-00 ICA-20
TRSE-00 SOE-02 DOE-15 CIAE-00 COME-00 PM-05
NSC-05 SP-02 SS-15 MCE-00 AID-05 ACDA-12 OMB-01
INR-10 /114 W
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R 161334Z APR 78
FM AMEMBASSY JIDDA
TO SECSTATE WASHDC 1737
INFO USLO RIYADH
AMCONSUL DHAHRAN

UNCLAS JIDDA 2876

E.O. 11652: N/A
TAGS: BGEN, PINT,SA
SUBJ: AGENTS FEES

REF: (A) STATE 082543, (B) JIDDA 1248, (C) RIYADH 257

1. LOCAL BUSINESSMEN AND ATTORNEY STATE THAT WHILE APPLICATION OF RECENT SAUDI LAW ON AGENTS. WHICH ARE PERTINENT ONLY TO CONSTRUCTION, SERVICES AND SUPPLY CONTRACTS ON TENDER BY THE SAG, IS FUZZY ON SOME COUNTS, IT IS NOW APPLICABLE AND SUBJECT TO INTERPRETATION ON INDIVIDUAL BASIS ONLY BY THE GOVERNMENT.

2. ANSWERS KEYED TO THE QUESTIONS IN PARA 2 REFTEL A ARE AS FOLLOWS:
A. THERE ARE NO REGULATIONS APPLICABLE TO OTHERWISE LEGAL CONTRACTS BETWEEN PRIVATE PARTIES EXCEPT CONDITIONS OF THE CONTRACT HOWEVER, IF SUBCONTRACTOR IS TIED TO PRIME CONTRACTOR TO THE GOVERNMENT, LOCAL BUSINESS FIRMS WONDER HOW FEE FOR SUBCONTRACTOR COULD BE GREATER THAN THAT FOR PRIME CONTRACTOR. ALSO ONLY ONE AGENT, THE EXECUTIVE AGENT, IS PERMITTED FOR THE CONTRACT FOR THE SAG.
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A CONSULTING AGENT IS CONSIDERED IN ESSENCE A HIRED EMPLOYEE OF THE PRIME CONTRACTOR WHO CAN WORK FOR A MONTHLY RETAINER AND POSSIBLY A BONUS.
B. A FEE ON SALES OF GOODS TO THE MILITARY IS GOVERNED ONLY BY THE MARK-UP THE COMMERCIAL REPEAT COMMERCIAL AGENT CAN OBTAIN. COMMERCIAL AGENT BUYS THE NON-LETHAL GOODS FROM FOREIGN SUPPLIER FOR RESALE TO MILITARY. TENDERER MUST BE

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RESIDENT IN SAUDI ARABIA OR A SAUDI CITIZEN. IF , HOWEVER,
HE TENDERS ON BEHALF OF FOREIGN FIRM NO COMMISSION PERMITTED.
THIS IS ADMITTEDLY SUBJECT OF INTERPRETATION. LOCAL SELLERS
OF FOOD TO MILITARY MAKE SUBSTANTIAL PROFITS MARGIN, MUCH LARGER
THAN 5 PERCENT.
(E) ONLY ONE EXECUTIVE AGENT IS PERMITTED. FOREIGN FIRM
CAN, HOWEVER, HAVE CONSULTING OR SO CALLED HOUSEKEEPING AGENT
WHO ARRANGES HOTEL RESERVATIONS,PROVIDES TRANSLATIONS AND SIMILAR
SERVICES. FEES ARE CONSIDERED SALARIES FOR SERVICES RENDERED
OUTSIDE CONTRACT WITH SAG AND NOT CONTINGENT ON FINAL AWARD.
THESE FEES ARE PAYABLE EVEN IF BID IS UNSUCCESSFUL.
(D) CONSULTANT AGENT IS HOUSEKEEPING AGENT WHO CAN POINT
FIRM TO EXECUTIVE AGNET WHICH HANDLES CONTRACT AND BID SUBMISSION
TO SAG. THE PRE-AWARD DISTINCTION IS MORE PERTINENT TO A
CONSULTANT WHO IS PAID A FEE FOR SERVICES REGQRDLESS OF
SUCCESSFUL. BID. EXECUTIVE AGENTS ARE GOVERNED BY POST
AWARD DISTINCTION AND COMMISSION LIMITATION. FOREIGN FIRMS
CAN HAVE BOTH TYPES OF AGENTS, BUT FEW DO.
E. AS FAR AS ANYONE CAN DETERMINE HERE THE 5 PERCENT
LIMITATION APPLIES ONLY TO COMMISSION PAYMENTS ON CONTRACTS
AWARDED AFTER ENACTMENT OF DECREE, JANUARY 20, 1978. DATE
OF SAG CONTRACT GOVERNS FEE RESTRICTIONS.

3. LOCAL BUSINESSMEN AGREE THAT THE DECREE LEAVES MANY UN-
ANSWERED QUESTIONS AND THAT OFFICIAL ARE REUCTANT NOW TO
MAKE JUDGMENT IN GRAY AREAS OF THE LAW.
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# Message Attributes

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